

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

400M0653

HOUSE BILL NO. 1226

Introduced by: The Committee on Taxation at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to expand the tax refund for agricultural processing
2 facilities to include expansions to existing facilities and to revise the time period in which
3 an application must be submitted.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 10-45B-1 be amended to read as follows:

6 10-45B-1. Terms used in this chapter mean:

- 7 (1) "Construction date," the first date earth is excavated for the purpose of constructing
8 a project;
- 9 (2) "Department," the Department of Revenue and Regulation;
- 10 (3) "Nameplate capacity," the number of kilowatts a power unit can produce according
11 to the nameplate assigned to the power unit generator by the manufacturer;
- 12 (4) "New agricultural processing facility," a new building or structure, or the expansion
13 of an existing building or structure, the construction of which is subject to
14 contractors' excise tax pursuant to chapter 10-46A or 10-46B. A new agricultural
15 processing facility is any new building or structure, or the expansion of an existing
16 building or structure, constructed for the initial or subsequent processing of any form



1 of agricultural commodity, product, or by-product. A new agricultural processing
2 facility does not include any building or structure constructed for raising or feeding
3 of livestock or the expansion of an existing agricultural processing facility except as
4 provided in § 10-45B-1.2;

5 (5) "Person," any individual, firm, copartnership, joint venture, association, limited
6 liability company, limited liability partnership, corporation, estate, trust, business
7 trust, receiver, unit of government, political subdivision of any state, rural electric
8 cooperative, consumers power district or any group or combination acting as a unit;

9 (6) "Power generation facility," a facility with one power unit that generates electricity
10 with a nameplate capacity of no less than five hundred megawatts;

11 (7) "Project," the construction of a new agricultural processing facility or a new business
12 facility at a single site;

13 (8) "Project cost," the amount paid in money, credits, property, or other money's worth
14 for a project;

15 (9) "Secretary," the secretary of the Department of Revenue and Regulation.

16 Section 2. That § 10-45B-1.2 be repealed.

17 ~~—10-45B-1.2. For purposes of this chapter, a new agricultural processing facility as defined~~
18 ~~in § 10-45B-1 includes an expansion to an existing soybean processing facility if the expansion~~
19 ~~will be used for the production of biodiesel.~~

20 Section 3. That § 10-45B-4 be amended to read as follows:

21 10-45B-4. The refund of taxes for a new agricultural processing facility pertains only to
22 project costs incurred and paid after April 1, 1997, and within thirty-six months of the approval
23 of construction date as stated on the application required by § 10-45B-6. No refund may be
24 made unless:

- 1 (1) The project cost exceeds the sum of four million five hundred thousand dollars; and
- 2 (2) The person applying for the refund obtains a permit from the secretary as set forth in
- 3 § 10-45B-6.

4 Section 4. That § 10-45B-6 be amended to read as follows:

5 10-45B-6. Any person desiring to claim a refund pursuant to this chapter shall apply for a
6 permit from the secretary ~~at least thirty days~~ prior to or within one hundred eighty days after the
7 construction date. However, any project with a construction date between February 1, 2005, and
8 July 1, 2005, that would otherwise qualify for a refund shall apply for a permit by August 1,
9 2005. The application for a permit shall be submitted on a form prescribed by the secretary. A
10 separate application shall be made and submitted for each project. Upon approval of the
11 application, the secretary shall issue a permit entitling the applicant to submit refund claims as
12 provided by §§ 10-45B-7 and 10-45B-8. Such permit or refund claims are not assignable or
13 transferable except as collateral or security pursuant to chapter 57A-9.